

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Corrections and Institutions to which was referred
3 Senate Bill No. 166 entitled “An act relating to the provision of medication-
4 assisted treatment for inmates” respectfully reports that it has considered the
5 same and recommends that the House propose to the Senate that the bill be
6 amended by striking out all after the enacting clause and inserting in lieu
7 thereof the following:

8 Sec. 1. LEGISLATIVE INTENT

9 It is the intent of the General Assembly that medication-assisted treatment
10 offered at or facilitated by a correctional facility is a medically necessary
11 component of treatment for inmates diagnosed with opioid use disorder.

12 Sec. 2. 18 V.S.A. § 4750 is added to read:

13 § 4750. DEFINITION

14 As used in this chapter, “medication-assisted treatment” means the use of
15 medications, in combination with counseling and behavioral therapies, to
16 provide a whole patient approach in treatment of substance use disorders.

17 Sec. 3. 28 V.S.A. § 801 is amended to read:

18 § 801. MEDICAL CARE OF INMATES

19 * * *

20 (b) ~~Upon~~ Within 24 hours after admission to a correctional facility ~~for a~~
21 ~~minimum of 14 consecutive days,~~ each inmate shall be ~~given a physical~~

1 ~~assessment~~ screened for opioid use disorders as part of the inmate's initial
2 health care screening unless extenuating circumstances exist.

3 * * *

4 (e)(1) Except as otherwise provided in this subsection, an ~~offender~~ inmate
5 who is admitted to a correctional facility while under the medical care of a
6 licensed physician, a licensed physician assistant, or a licensed advanced
7 practice registered nurse,~~or a licensed nurse practitioner~~ and who is taking
8 medication at the time of admission pursuant to a valid prescription as verified
9 by the inmate's pharmacy of record, primary care provider, other licensed care
10 provider, or as verified by the Vermont Prescription Monitoring System or
11 other prescription monitoring or information system, including buprenorphine,
12 methadone, or other medication prescribed in the course of medication-assisted
13 treatment, shall be entitled to continue that medication and to be provided that
14 medication by the Department pending an evaluation by a licensed physician, a
15 licensed physician assistant, ~~a licensed nurse practitioner,~~ or a licensed
16 advanced practice registered nurse.

17 (2) ~~However~~ Notwithstanding subdivision (1) of this subsection, the
18 Department may defer provision of a validly prescribed medication in
19 accordance with this subsection if, in the clinical judgment of a licensed
20 physician, a physician assistant, ~~a nurse practitioner,~~ or an advanced practice

1 registered nurse, it is not ~~in the inmate's best interest~~ medically necessary to
2 continue the medication at that time.

3 (3) The licensed practitioner who makes the clinical judgment to to
4 discontinue a medication shall ~~enter~~ cause the reason for the discontinuance to
5 be entered into the inmate's ~~permanent~~ medical record, specifically stating the
6 reason for the discontinuance. The inmate shall be provided, both orally and in
7 writing, with a specific explanation of the decision to discontinue the
8 medication and with notice of the right to have his or her community-based
9 prescriber notified of the decision. If the inmate provides signed authorization,
10 the Department shall notify the community-based prescriber in writing of the
11 decision to discontinue the medication.

12 (4) It is not the intent of the General Assembly that this subsection shall
13 create a new or additional private right of action.

14 (5) As used in this subchapter:

15 (A) “Medically necessary” describes health care services that are
16 appropriate in terms of type, amount, frequency, level, setting, and duration to
17 the individual's diagnosis or condition, are informed by generally accepted
18 medical or scientific evidence, and are consistent with generally accepted
19 practice parameters. Such services shall be informed by the unique needs of
20 each individual and each presenting situation, and shall include a determination

1 that a service is needed to achieve proper growth and development or to
2 prevent the onset or worsening of a health condition.

3 (B) “Medication-assisted treatment” shall have the same meaning as
4 in 18 V.S.A. § 4750.

5 * * *

6 Sec. 4. 28 V.S.A. § 801b is added to read:

7 § 801b. MEDICATION-ASSISTED TREATMENT IN CORRECTIONAL
8 FACILITIES

9 (a) If an inmate receiving medication-assisted treatment prior to entering
10 the correctional facility continues to receive medication prescribed in the
11 course of medication-assisted treatment pursuant to section 801 of this title, the
12 inmate shall be authorized to receive that medication for as long as medically
13 necessary.

14 (b)(1) If at any time an inmate screens positive as having an opioid use
15 disorder, the inmate may elect to commence buprenorphine-specific
16 medication-assisted treatment if it is deemed medically necessary by a provider
17 authorized to prescribe buprenorphine. The inmate shall be authorized to
18 receive the medication as soon as possible and for as long as medically
19 necessary.

1 (2) Nothing in this subsection shall prevent an inmate who commences
2 medication-assisted treatment while in a correctional facility from transferring
3 from buprenorphine to methadone if:

4 (A) methadone is deemed medically necessary by a provider
5 authorized to prescribe methadone; and

6 (B) the inmate elects to commence methadone as recommended by a
7 provider authorized to prescribe methadone.

8 (c) The licensed practitioner who makes the clinical judgment to
9 discontinue a medication shall cause the reason for the discontinuance to be
10 entered into the inmate’s medical record, specifically stating the reason for the
11 discontinuance. The inmate shall be provided, both orally and in writing, with
12 a specific explanation of the decision to discontinue the medication and with
13 notice of the right to have his or her community-based prescriber notified of
14 the decision. If the inmate provides signed authorization, the Department shall
15 notify the community-based prescriber in writing of the decision to discontinue
16 the medication.

17 (d) Regardless of whether an inmate received medication-assisted treatment
18 while in the correctional facility, if the inmate screened positive for an opioid
19 use disorder while in the Department’s custody, the Department shall begin
20 reentry planning, including consideration of whether it is medically necessary

1 to commence medication-assisted treatment, on or before 90 days prior to the
2 inmate's discharge from the correctional facility.

3 (e) Any counseling or behavioral therapies provided in conjunction with
4 the use of medication-assisted treatment shall be medically necessary.

5 * * *

6 Sec. 5. MEMORANDUM OF UNDERSTANDING; MEDICATION-
7 ASSISTED TREATMENT IN STATE CORRECTIONAL
8 FACILITIES

9 (a) On or before December 31, 2018, the Departments of Corrections and
10 of Health may enter into a memorandum of understanding with opioid
11 treatment programs throughout the State, certified and accredited pursuant to
12 42 C.F.R. part 8, that serve regions in which a State correctional facility is
13 located to provide medication-assisted treatment to those inmates for whom a
14 licensed practitioner has determined medication-assisted treatment is medically
15 necessary. Treatment received pursuant to this section shall be coordinated
16 pursuant to 18 V.S.A. § 4753.

17 (b) As used in this section, "medication-assisted treatment" shall have the
18 same meaning as in 18 V.S.A. § 4750.

19 **Sec. 6. MEDICATION-ASSISTED TREATMENT DENIALS; REPORT**

20 **On or before February 1, 2019, the Department of Corrections shall submit**
21 **a written report to the House Committee on Corrections and Institutions and to**

1 the Senate Committee on Institutions documenting the number of inmate
2 grievances filed as a result of an inmate's request for induction on medication-
3 assisted treatment being denied due to lack of medical necessity despite the
4 inmate's having screened screen positive for opioid use disorder.

5 Sec. 7. EFFECTIVE DATE

6 This act shall take effect on July 1, 2018.

7

8 (Committee vote: _____)

9

10

Representative _____

11

FOR THE COMMITTEE